

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

February 19, 2002

GSBCA 15708-TRAV

In the Matter of RONALD J. ANSON

Ronald J. Anson, Washington, DC, Claimant.

Antonier White, Office of the General Counsel, Department of Education,
Washington, DC, appearing for Department of Education.

NEILL, Board Judge.

Claimant, Mr. Ronald J. Anson, is an employee of the Department of Education. He asks that we review his agency's denial of a claim for travel expenses. The agency contends that the claim cannot be paid because there is "no evidence of a properly approved travel authorization." We disagree. Circumstantial evidence presented by claimant convinces us that Mr. Anson's travel was in fact authorized notwithstanding the fact that the agency cannot find direct evidence of this fact in its automated travel system.

Background

____ On Friday, June 16, 1995, Mr. Anson flew from Washington, D.C., to Chicago, Illinois, to attend a meeting of the National Association of State Boards of Education. He was to be a guest participant in the association's study group on state board governance. He returned from the meeting on the following day, Saturday, June 17.

Mr. Anson's airline ticket for this trip was purchased three days before his trip through Omega World Travel, the agency's travel management center (TMC) at the time. The ticket was paid for with his Government credit card. Mr. Anson states that within seven days after returning from his meeting in Chicago, he submitted a claim for the expenses incurred in conjunction with his trip. While the original claim has been lost, Mr. Anson has reconstructed it using relevant documentation still in his possession. The claim totals \$385.10. It includes \$180 for lodging and per diem allowance, \$152 for airfare, \$24 for parking at the Washington airport, \$25.50 for bus transportation between the Chicago airport and his hotel, and \$3.60 for travel in his personally owned vehicle between the Washington airport and his home.

Mr. Anson's leave and earnings slip for the period in which he took his trip to Chicago does not show any annual leave taken during the period and shows a credit of ten hours of compensatory time which he explains was for time spent, on Saturday, June 17, at the meeting and in return travel.

Claimant was not aware until March 24, 2000, that the travel voucher seeking reimbursement for the costs of his trip to Chicago on June 16/17, 1995, actually had never been paid. He explains that he mistakenly assumed that a payment received from the National Finance Center (NFC) in July 1995 for two trips taken earlier in the year also included payment for the trip taken to Chicago in June. On March 24, 2000, however, he was advised by his supervisor that management had concluded his trip to Chicago in June 1995 was for personal rather than official reasons and that his use of the Government credit card was, therefore, improper. This conclusion on the part of management was said to be based upon the fact that no travel authorization which would justify Mr. Anson's use of the Government credit card for his trip to Chicago could be found in the agency's records.

Once confronted with the allegation that he had misused his Government credit card, Mr. Anson attempted to determine what had in fact happened to his original travel authorization. To do this, it was necessary to determine precisely how travel requests were processed for his office in June 1995. He explains that, at that period in time, staff involvement in seeking travel authorization and making travel arrangements was minimal. Employees simply provided their up-coming travel requirements to an office secretary and were provided with airline tickets prior to departure. Employees leaving on official travel were not given copies of their actual travel authorizations. On return, an employee would provide expense information to the secretary and, eventually, sometimes after more than a month, would receive reimbursement for these expenses from the NFC.

In June 1995, Mr. Anson was assigned to one of the five research institutes within the agency's newly established Office of Educational Research and Improvement (OERI). Pursuant to the Department of Education's Desk Reference Guide - Travel Management in effect at the time, a travel authorization form was to be issued for all travel beyond fifty miles. It was the responsibility of the authorizing official to ensure that funds were available to pay for the approved travel. The same official was to assign a travel authorization number once funds were earmarked for travel under the agency's internal accounting system, the Primary Accounting System (PAS).

In attempting to determine how travel requests were processed in June 1995, Mr. Anson learned that, at that time, the authorizing official had delegated the responsibility for assigning individual travel authorization numbers, entering data into the PAS, filing vouchers with the NFC, and keeping records of these actions, to each of the OERI's five research institutes. Central control of these matters was not introduced until the following year, 1996. Under this arrangement, the procedure for authorizing travel was supposed to work as follows. A secretary in an institute would prepare an authorization form and enter a sequential authorization number and travel cost estimate into the PAS. The authorization form was then forwarded to the OERI Executive Office, where it was reviewed by the authorizing official. The form would then be returned to the institute secretary. She, in turn, would forward approved forms to Omega World Travel, which would then make the

necessary travel arrangements for the employee. When the travel was completed, the same institute secretary would enter the information contained in the traveler's expense voucher into the NFC system for processing payment to the employee.

In his research of the travel authorization/payment process in effect in June 1995, Mr. Anson discovered that there was a practical problem with this procedure which institute secretaries were expected to follow. When the estimated travel cost initially entered in the PAS was found to be significantly greater than the voucher expenses turned in by the traveler upon return, the secretary would be expected to enter the PAS a second time and adjust the initial entry downward. To avoid having to adjust the initial PAS entry, secretaries frequently made no initial entry of the authorization in the PAS at all, but rather waited until the travel voucher was submitted. Then, the travel authorization and an estimate corresponding accurately to actual costs would be entered in the PAS at the same time that the voucher amount was entered into the NFC system for processing and payment.

Mr. Anson contends that this "same-time entry" procedure was used by the secretary in the research institute to which he was assigned. The secretary, however, kept a back-up record of all travel taken by the institute staff in a loose-leaf binder. In a series of one-line entries, the secretary noted the traveler's name, destination, purpose of travel, date, estimated cost, and a sequential authorization number for each successive trip taken by employees assigned to the institute. If an electronic entry failed or paperwork was lost, this binder could serve as a source for information regarding the employee's travel and, in particular, the authorization number. Unfortunately, the binder which should include information regarding the claimant's travel to Chicago in June 1995 was lost in 1996 shortly after the secretary who devised this system was transferred to another position. We are told that the binder was left on a desk in a public area and disappeared shortly thereafter.

The OERI was not established until after passage of the Educate America Act, Pub. L. No. 103-227, 108 Stat. 125 (1994). Claimant notes that in 1995, management procedures were still problematic in the OERI and travel was no exception. He states that the secretary handling travel in his own institute was overwhelmed. Actions on travel vouchers promptly submitted upon completion of travel were often delayed. As an example, he cites the reimbursement he received in July 1995 for travel taken in April and May of that year. It is Mr. Anson's firm belief that, during this turbulent period, the voucher for his June trip to Chicago was misplaced. As a result, the authorization number and estimated cost of the trip were never put into the PAS and the claim set out in that voucher was never submitted to the NFC for payment.

Upon concluding that his voucher had been lost and, therefore, never processed, Mr. Anson, on June 14, 2001, provided a summary of his original claim together with supporting documentation to a staff person in the OERI Executive Office who was responsible for handling travel matters. In making this submission, Mr. Anson asked how he should proceed under the circumstances. By letter dated June 26, to this same individual in the OERI Executive Office, Mr. Anson repeated his request for payment and provided argument on why he believed the documentation supporting his claim amply proved that his trip to Chicago was authorized, notwithstanding the fact that his original travel paperwork was

never entered into the NFC system. On July 16, 2001, the OERI Executive Officer denied Mr. Anson's claim.

On July 27, 2001, Mr. Anson appealed the denial of his claim to the agency's Group Supervisor for Financial Management Policies and Administrative Programs. In this request he pointed out that he thought it unfair that he should remain unpaid for travel costs simply because travel paperwork had been lost but due to no fault on his part. In this request for reconsideration, Mr. Anson again provided copies of contemporaneous documentation which he believed supported the conclusion that the travel had in fact been authorized.

By e-mail message dated October 18, 2001, Mr. Anson's request for reconsideration was denied. The message states in principal part:

Your authorizing official has indicated that the travel was not authorized. As I have been presented no evidence of a properly approved travel authorization, I have no authority to require the payment of the claimed expenses. A properly approved travel authorization is required prior to incurring any travel expenses, per Department policy and Federal Travel Regulations. I have researched the automated travel system, and can find no evidence that an authorization was ever submitted to the system of record. Therefore, I have no evidence to support the claim for expenses.

Discussion

As claimant in this case, Mr. Anson bears the burden of showing us why he should prevail. Board Rule 401(c) (48 CFR 6104.1(c)(2000)); Barbara M. Singleton, GSBCA 15456-RELO, 01-2 BCA ¶ 31,634; Anthony A. Acerra, GSBCA 15297-RELO, 00-2 BCA ¶ 31,051; Thomas W. Burt, GSBCA 14537-RELO, 98-2 BCA ¶ 29,751; Michael S. Knezevich, GSBCA 14398-TRAV, 98-1 BCA ¶ 29,607. We conclude here that Mr. Anson has met this burden.

This case is unusual in that the agency has chosen not to submit a response to Mr. Anson's appeal to the Board. In a letter dated January 3, 2002, the agency's Office of General Counsel advised us that no response would be filed and that the agency believes the reasons for denying Mr. Anson's claim have been sufficiently explained in the materials submitted by the claimant himself. In particular, our attention is directed to the denial of the claimant's request to the agency for reconsideration, a copy of which was provided with the claimant's submission.

In looking at this denial, we agree of course with the agency that "[a] properly approved travel authorization is required prior to incurring any travel expenses, per Department policy and Federal Travel Regulations." Nevertheless, we find puzzling that, in denying Mr. Anson's request for reconsideration, the agency official writes that she, herself, has been presented with no evidence of a properly approved travel authorization and that the agency official responsible for issuing authorizations has indicated that Mr. Anson's travel was not authorized.

Information provided by Mr. Anson regarding the processing of travel requests in the OERI in June 1995 strongly suggests, in the absence of any other relevant evidence, that it would be highly unusual for the authorizing official to recall at this late date that he refused to approve a particular travel request submitted to him for approval in 1995. We are told that authorization requests were prepared by administrative personnel assigned to the individual research institutes and that no record was kept in the OERI Executive Office of actions taken on them. Further, if Mr. Anson's request for authorization had been rejected, presumably this would have become known promptly to management officials in his own institute. Normally such an action would be noteworthy – to say the least. If that had occurred, officials in claimant's research institute would undoubtedly have expected him to take leave for Friday, June 16, to attend the Chicago meeting and clearly would not have approved ten hours of compensatory time for time spent at and in return travel from the meeting on Saturday, June 17. Yet, Mr. Anson's leave and earnings slip shows no leave taken for the pay period in which June 16 falls and shows the award of ten hours of compensatory time during the same period.

The absence of any evidence in the agency's system of record that Mr. Anson was in fact authorized to travel to Chicago on June 16, 1995, does not convince us that no authorization was actually given. As already noted, the established procedure in place at the time required the secretary in each research institute to provide Omega Travel with a copy of approved travel authorizations once they were returned from the OERI Executive Office. Documentation submitted by Mr. Anson shows that the American Airlines tickets he used for his trip to and from Chicago were in fact issued by Omega Travel and at the Government contract rate. Mr. Anson has also provided us with an e-mail message from an official at Omega which confirms that, under Omega's contract with the agency, tickets at Government contract rates could not be issued to agency employees nor paid for using Government charge cards unless it was first documented that the travel was authorized. This requirement comes as no surprise to us and persuades us that, at the time, there must have been a travel authorization supporting the purchase of Mr. Anson's tickets at the Government contract rate.¹

A related question concerns the existence of a travel voucher covering Mr. Anson's expenses for the Chicago trip. While the claimant does not have a copy of the voucher, he has provided us with a copy of a computer file created on June 20, 1995. In this file are all of the expenses, other than the lodging and per diem allowance and the cost of the airline tickets, which Mr. Anson states he included in his travel voucher. This alone demonstrates that, promptly upon return from his trip to Chicago, the claimant was well on his way to preparing a travel voucher covering the trip. This documentation, plus claimant's own un rebutted assurance that he did in fact submit a voucher shortly after June 20, 1995, persuades us that one was submitted. The fact that the voucher was neither rejected nor

¹ Mr. Anson explains that he requested a copy of Omega's record of the ticket purchases which presumably would also identify his authorization number. A letter from Omega, however, explains that its records for 1995 have already been archived and the small amount in question simply does not justify incurring the high cost associated with retrieving this information.

paid, however, convinces us that it was lost or misplaced – especially in view of Mr. Anson's un rebutted description of the heavy workload confronting the secretary responsible in his institute for processing travel vouchers. Since the same-time entry procedure was in use at that time in Mr. Anson's institute and there is no record of the authorization in the PAS or the NFC system, we likewise conclude that the voucher was misplaced or lost before entries regarding this travel could be made in either system.

It may well be true that the official denying claimant's request for reconsideration was presented no direct evidence of a properly approved travel authorization. Nevertheless, we find that there is ample circumstantial evidence that one was provided. Indeed, when taken as a whole, the detailed evidence which Mr. Anson has provided to us readily convinces us that authorization was given for him to travel to Chicago on June 16, 1995, that this authorization served as the basis for his being issued airline tickets by the agency's TMC, that he promptly prepared and submitted to the agency a travel voucher upon his return from this trip, that the voucher was lost or misplaced, and, as a result, that no entry of the authorization or the amount estimated for this travel was ever made in the agency's system of record and no entry of entitlement to payment of claimed expenses was ever made in the NFC system. We, therefore, find that the claimant is entitled to payment of his reconstructed claim.

We note in passing that much of Mr. Anson's information regarding the processing of travel requests in mid 1995 and, in particular, the practical problem which gave rise to the "same-time" entry procedure used by institute secretaries, comes from an individual identified as "the OERI Executive Office official responsible for finances in 1995." The agency has not challenged in any way the explanations Mr. Anson attributes to this official. Given the official's position, we conclude that he is indeed a knowledgeable and credible source.

Claimant is very much aware that Congress in the Travel and Transportation Reform Act of 1998 provided for the payment of a late fee if an agency fails to reimburse an employee for a travel claim within thirty days of the submission of a proper voucher. Pub. L. No. 105-264, § 2(e), 112 Stat. 2350, 2352 (1999). In the event we should grant his claim, he asks that we also award interest on the claim. He does not ask that the interest be calculated from the time he submitted his original claim in 1995 until we grant the claim, but rather, that the calculation begin from the time he reconstructed his claim for agency officials – allowing of course for the thirty days provided by statute and regulation for processing a claim. See 41 CFR 301-52.17 (2000). Mr. Anson notes that on April 12, 2000, he provided the agency with information that supported his contention that he was on official and not personal business when he traveled to Chicago on June 16, 1995. He also notes that on June 14, 2001, he submitted documentation fully supporting his claim. Mr. Anson proposes that we calculate interest beginning thirty days from either one or the other of those dates.

We deny Mr. Anson's request for interest. As already stated, we are persuaded that the claim in question here was submitted in 1995. We do not consider that the statute and regulation to which he refers were intended to cover payment of reconstructed or resubmitted claims such as that which was later submitted by the claimant. Further, we have previously stated that we will not apply that statute to claims for travel completed before its passage and

implementation through applicable regulation. Herbert J. Ratzburg, GSBCA 15284-RELO, 00-2 BCA ¶ 31,015.

Mr. Anson's claim for payment of \$385.10 is granted. The evidence he has provided to us persuades us that his travel to and from Chicago on June 16/17, 1995, was authorized and that the agency's inability to locate his travel authorization is attributable to poor record-keeping practices in effect at the time and is in no way attributable to his own fault or negligence. The agency should, therefore, pay the amount claimed without further delay. Mr. Anson's request for interest on that amount, however, is denied.

EDWIN B. NEILL
Board Judge